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SENATE BILL 2126  
By McNally

AN ACT to amend Tennessee Code Annotated, Title 11, Chapter 3, to enact "The State Parks Management and Preservation Act of 2002".

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. This act shall be known and may be cited as "The State Parks Management and Preservation Act of 2002".

SECTION 2. Tennessee Code Annotated, Title 11, Chapter 3, is amended by deleting Part 1 in its entirety and by substituting the following as new Part 1.

Section 11-3-101. For the purposes of the state parks agency, "park" means and includes any and all areas of land heretofore or hereafter acquired by the state of Tennessee or the agency, which by reason of having natural and historic features, scenic beauty or location, possess natural or potential physical, aesthetic, scientific, creative, social or other recreational values, and are dedicated to and forever reserved and administered by the state for the recreational and cultural use and enjoyment of the people.

Section 11-3-102. Every park under the provisions of this chapter shall be preserved in a natural condition so far as may be consistent with its human use and

safety, and all improvements shall be of such character as not to lessen its inherent recreational value.

Section 11-3-103.

(a) All parks, monuments and other areas used primarily for recreational purposes shall be properly classified under the supervision of the Tennessee parks commission and the commission shall, upon approval of the classification, designate the areas comprising the state park system, the state park system to be administered through the Tennessee parks agency.

(b)

(1) Notwithstanding any other provision of law to the contrary, the state park designated as "Pickett State Park" is hereby redesignated as "Pickett Civilian Conservation Corps (CCC) Memorial State Park".

(2) The agency shall erect suitable markers and/or affix suitable signs designating such park as the "Pickett Civilian Conservation Corps (CCC) Memorial State Park".

Section 11-3-104. The state, counties, municipalities, and all political subdivisions of Tennessee are empowered to cooperate with each other, and with other states, with the Tennessee parks commission, with the United States government, or any agency thereof, in planning, establishing, improving, or maintaining any park or other recreational area or monument.

Section 11-3-105. In the acquisition of sites or boundaries of land for parks to be used for any one (1) or more of the purposes recited in this chapter, the commissioner of environment and conservation is authorized to exercise the power of eminent domain when the governor so orders.

Section 11-3-106. Every county, municipality, and other political subdivision of this state is empowered to expend money from available sources to aid in the purchase

of areas within the county, municipality or political subdivision for park purposes within the meaning of this chapter. Such park shall become the property of the state, to be improved, cared for and administered by the Tennessee state parks agency as a part of the state park system hereinabove mentioned; provided, that the governor and the Tennessee state parks commission shall have first agreed in writing to accept the same.

Section 11-3-107.

(a) The Tennessee state parks agency is authorized to employ a suitable number of persons as park rangers, ranger naturalists, park managers and any other positions, however designated or named, having qualifications established by the agency, and approved by the department of personnel. They shall manage and supervise the operation of the state parks and other recreational areas managed or administered by the agency; provided, that persons employed as park rangers as of January 1, 1986, who meet the qualifications set out by this section as it existed on January 1, 1986, shall not be denied promotion to a position as park manager or any equivalent position because of not meeting any more stringent qualifications which may be established pursuant to this subsection.

(b) Employees of the Tennessee state parks agency, when properly trained and qualified, may be commissioned by the executive director of the agency as law enforcement officers. When so commissioned, they shall have all of the police powers necessary to enforce all state laws, rules, and regulations within the state parks, state forests, state natural areas, all other state-owned areas under the jurisdiction of the agency, and all recreational areas which are administered or managed by the agency under lease, easement or other agreement with any public or private owner of the property. The commissioned

employees of the agency shall have all police powers necessary to apprehend and arrest any person within the state for any violation of state law or rule or regulation of the agency committed on any state park or other area described above. They shall enforce the laws, rules, and regulations and maintain order, for the protection of state property and the public welfare. They shall have the right to carry firearms or other arms while on duty as commissioned law enforcement officers of the agency. It is the responsibility of the agency to assure that law enforcement duties are pursued with the utmost awareness and care and not to the detriment of the primary responsibilities of rangers and managers, which are to provide for visitor information and education, to manage and maintain park resources and personnel and to conduct recreation programs.

(c) The executive director of the agency, with the approval of the department of personnel, shall establish standards of training and qualification for the commissioning of employees as law enforcement officers, and for in-service training of its commissioned employees. Training standards shall be consistent with those established by a recognized agency such as the Tennessee peace officer standards and training commission, the Jerry F. Agee Tennessee Law Enforcement Training Academy or the department of interior, national park service.

Section 11-3-108. The Tennessee state parks commission is authorized to sell certain tracts of land which are surplus to the needs and benefit of the state of Tennessee, and now being used for state park purposes. The land shall be sold only upon authorization of the national park service, department of interior, and under such terms and conditions as it may require.

Section 11-3-109.

(a) Upon receipt of such authorization and terms and conditions from the national park service, the executive director of the Tennessee state parks agency is hereby authorized to execute a deed on behalf of the state of Tennessee, transferring and conveying whatever interest the state of Tennessee might have in the tract of land.

(b) The deed of conveyance shall be approved by the governor and attested by the secretary of state.

Section 11-3-110.

All funds received from any of such sales of land shall be invested in capital improvements in that particular state park from which the sale was made.

Section 11-3-111.

(a) The executive director of the Tennessee state parks agency, with the approval of the state building commission and attorney general and reporter, may enter into lease agreements for the operation of existing facilities and the development, construction, and operation of new facilities on lands under the control or supervision of the agency where the leases are deemed necessary and in compliance with the master plan, in the discretion of the executive director, for improved utilization of state lands and facilities in the public interest. Such facilities or developments shall include, but not be limited to, boat docks, fishing piers, camp sites, trailer camps, golf courses, recreational facilities, hotels, motels, restaurants, retail stores, and historic sites. The leases may contain a provision giving the lessee the option of renewing the lease upon like terms and conditions and for the same term. The leaseholds may be sold, provided they have been approved by the executive director, the governor, and the attorney general and reporter, and any sale made without their approval shall be void. Any lease agreements entered into in accordance with the provisions of

this section shall be entered into only after sealed bids have been submitted to the executive director on the facilities to be leased and all applicable provisions of law have been satisfied which relate to contracts, property management, and leasing, including such regulations as may be promulgated by appropriate state officials.

(b) The executive director of the state parks agency with the approval of the commissioners of environment and conservation and finance and administration, may enter into license agreements which allow the licensee to operate facilities or to conduct business operations within state parks, where this is deemed necessary for the best utilization of state parks for public recreational purposes, under the following conditions:

(1) The intended use or occupancy of park lands or facilities by the licensee is seasonal or is of a nature that makes it inappropriate for the state to enter into a lease agreement;

(2) The license is for a term not to exceed three (3) years, and may be terminated by the executive director, without cause; and

(3) The license agreement is entered into only after written proposals have been solicited by advertisement in a newspaper of general circulation in the county where the park is located, except that a license agreement for a term not to exceed ninety (90) days may be negotiated and entered into without such advertisement in order to obtain an operator for a facility which is vacant because a previous lease or license has expired or has been terminated.

(c) The executive director may issue permits or licenses to any government, public agency, individual, corporation, association or other organization for terms of not more than ten (10) days for the use of areas or

facilities within state parks for special events, where such is deemed to enhance the use of the parks for public recreational purposes. The commission shall promulgate rules which establish policies, rules and procedures applicable to the issuance of permits, licenses, and fees pursuant to this subsection. Such rules shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5. Such rules shall also be reviewed and approved by the commissioner of finance and administration before becoming effective.

(d) Any person or business entity who occupies property in a state park under a lease or license in which crafts or souvenirs are sold shall maintain an inventory, twenty-five percent (25%) of which is in crafts native to the state of Tennessee, if such crafts are readily available. This provision shall become the basis of a section of every such new lease or license and every such lease or license that is renegotiated with the present tenant or licensee authority.

Section 11-3-112.(a) Notwithstanding any provision of law to the contrary, the commissioner of environment and conservation and the Tennessee state parks commission have the authority to cause to be purchased and to develop the method for purchasing, without the approval of any other agency of state government, raw materials, merchandise for resale, supplies and equipment necessary for the provision of quality services for state park operations.

(b) It is the responsibility of the commissioner of environment and conservation to develop policies and procedures to ensure, to the extent practicable, that purchases made on behalf of park operations are at the lowest possible price while at the same time ensuring quality and timely delivery. The commissioner shall file such policies and procedures with the board of standards for the board's review and approval.

(c) The commissioner and the Tennessee state parks commission acting in concert have the authority to purchase supplies and equipment through the department of general services and are encouraged to exercise the option to purchase through the department under the provisions of Title 12, Chapter 3, in circumstances which are advantageous for the timely delivery of low cost, quality products.

(d) For the purposes of this section, "park operations" means the following facilities at state parks: inns, cabins, restaurants, golf courses, gift shops, marinas, snack bars, and vending machines.

(e) The comptroller of the treasury is directed to report to the general assembly no later than February 1, 2003, on the success or failure of the purchasing authority. Such report shall determine if cost savings have resulted from the enactment and implementation of this section. Such report shall also determine if the state park operations' costs and expenditures and rates charged consumers meet industry standards for facilities at state parks, inns, cabins, restaurants, golf courses, gift shops, marinas, snack bars, and vending machines. Such determination shall include and allocate any expenditures for equipment, services or capital outlay that are provided directly or indirectly to state park operations.

(f) No expenditure of public funds pursuant to this section shall be made in violation of the provisions of Title VI of the Civil Rights Act of 1964, as codified in 42 U.S.C. §2000(d).

#### Section 11-3-113.

If a golf course is located in a state park, but operated by a municipal or county government agency under contract with the department of environment



and conservation, the department shall reimburse the operating agency for any green fees waived under the provisions of this section.

Section 11-3-114.

The commissioner and the Tennessee state parks commission shall offer discounted rates for activities at the state parks to senior citizens, disabled persons, state employees, members of the Tennessee national guard, and any other group that the commissioner and the Tennessee state parks commission deem appropriate for such treatment. The specific activities where these discounts would apply as well as the timing and amount will be left to the commissioner's discretion.

Section 11-3-115.

(a) Six percent (6%) of revenues raised from fees charged at state park facilities shall be allocated at the end of each quarter to, and used for, maintenance of state park facilities, including furniture, fixtures, and equipment.

(b) Any such funds that are unencumbered or unexpended at the end of any fiscal year shall not revert to the state's general fund, but shall be carried forward until expended for the purposes stated in subsection (a).

SECTION 3. Tennessee Code Annotated, Title 11, Chapter 3, is amended by deleting Part 2 in its entirety and by adding the following as a new Part 2.

Section 11-3-201.

(a)

(1) The Tennessee state parks commission is created as an independent and separate administrative board for Tennessee's state parks. The commission shall consist of thirteen (13) members as follows:

(A) The commissioner of environment and conservation;

(B) The commissioner of tourism;

(C) One (1) member appointed by the speaker of the senate;

(D) One (1) member appointed by the speaker of the house of representatives; and

(E) Nine (9) members appointed by the governor from a list of nine (9) persons, one (1) each from the nine (9) congressional districts as provided in Section 2-16-103, submitted by each of the following organizations:

(i) The Tennessee Conservation League;

(ii) The Tennessee Environmental Council; and

(iii) The Tennessee Recreation and Parks Association.

Each list of nominees shall include background data and a complete statement of the nominee's professional experience.

(2) In making the appointments, the governor shall appoint at least one (1) member from each of the nine (9) congressional districts. In making the appointments, the governor shall strive to ensure that at least one (1) member is sixty (60) years or older and that at least one (1) member is a member of a racial minority. Each organization and the governor in making lists of nominees and appointments respectively shall strive to ensure the selection of a body which reflects the state's diversity with respect to gender.

(3) In making the appointments, the governor shall appoint:

(A) Not less than three (3) members who have in parks and recreation administration or natural resources management

not less than a master's degree or not less than five (5) years of experience in such fields;

(B) Not less than one (1) member who has in archaeological preservation not less than a master's degree or not less than five (5) years of experience in such field;

(C) Not less than one (1) member who has in cultural and historical studies not less than a master's degree or not less than five (5) years of experience in such field;

(D) Not less than two (2) of the members who have in economics and finance or urban planning not less than a master's degree or not less than five (5) years of experience in such fields; and

(E) Not less than one (1) member who has in wildlife management or botanical studies not less than a master's degree or not less than five (5) years of experience in such fields;

(b)

(1) Each member appointed by the governor shall be confirmed by the house conservation and environment committee and the senate environment, conservation and tourism committee and by joint resolution of the general assembly prior to beginning a term of office.

(2) If the general assembly is not in session at the time a member is appointed by the governor to fill a vacancy resulting from the expiration of the term of a member of the commission appointed by the governor, the member of the commission whose term has expired shall serve until a new appointee is confirmed as provided in this section.

(c) Three (3) of the members appointed by the governor shall serve two (2) years; three (3) of the members shall serve three (3) years; and three (3) of the members shall serve four (4) years. Upon the expiration of the term of office of the governor-appointed members of the commission, their successors in office shall be appointed in like manner to serve for full periods of four (4) years. All other citizen members of the commission shall serve terms of four (4) years.

(d) The terms of the new members appointed by the governor to the commission shall begin April 1, provided such members are properly confirmed.

(e) The terms of the speaker-appointed members shall begin April 1.  
Section 11-3-202.

(a) The members of the commission shall receive no compensation for their services as members of such commission, except that they shall be paid their actual and necessary traveling expenses for four (4) regular meetings each year and not more than four (4) called meetings during any one (1) year. They shall also be paid their actual and necessary travel expenses for attending to other commission business approved by the chair.

(b) All reimbursement for travel expenses shall be in accordance with the provisions of the comprehensive travel regulations as promulgated by the department of finance and administration and approved by the attorney general and reporter.

Section 11-3-203.

(a) The commission shall elect a chair, a vice-chair and a secretary; the secretary may or may not be a member of the commission. These officers shall be elected for a period of one (1) year. After organization, the commission shall hold four (4) regular meetings, and may hold as many as four (4) special meetings, or called meetings, in any one (1) year at such times and places as the

commission shall elect, for which their expenses shall be paid as provided in Section 11-3-202 of this act.

(b) Eight (8) members of the commission shall constitute a quorum.

(c) The governor shall serve as an ex officio member of the commission.

#### Section 11-3-204.

(a) All vacancies through expiration of the terms of the members of the commission who were appointed by the governor shall be filled by appointment by the governor for a term of four (4) years. In the event a vacancy should occur other than by expiration of the term of a member of the commission who was appointed by the governor, the governor shall fill such vacancy for the unexpired portion of the original term.

(b) In each instance, appointments to be made by the governor shall be made from the congressional district of the state in which the vacancy occurred, and the boundaries of the districts shall remain the same as the boundaries which were in effect upon the effective date of this act.

(c) The power of the governor to remove governor-appointed members of the commission shall be the same as that granted under §4-3-112. No governor-appointed commissioner shall be eligible for reappointment to a third consecutive term in office.

(d) Vacancies through expiration of the terms of the members of the commission appointed by the speakers shall be filled by appointment by the appropriate speaker. If a vacancy occurs other than by expiration of the term, the appropriate speaker shall fill such vacancy for the unexpired portion of the

original term. Commissioners appointed by the speakers are eligible for reappointment, but are limited to two (2) consecutive terms of office.

Section 11-3-205.

(a) The governor may remove a commissioner for inefficiency, neglect of duty, or misconduct in office, after first delivering to the commissioner a copy of the charges and affording the commissioner an opportunity of being publicly heard in person or by counsel to defend against the charges, upon not less than ten (10) days notice.

(b) If such commissioner is removed, the governor shall file in the office of the secretary of state a complete statement of all charges made against the commissioner and the governor's findings thereon, together with a complete record of the proceedings.

(c) The governor shall fill vacancies by appointment for any unexpired term, as described in Section 11-3-204 of this act.

Section 11-3-206.

(a) The Tennessee state parks commission is directed and authorized to perform the following duties and functions:

- (1) Appoint and dismiss the executive director;
- (2) Approve the budget of the state parks agency;
- (3) Promulgate necessary rules and regulations pursuant to Title 4, Chapter 5, to implement the provisions of this act;
- (4) Establish objectives within the state policy which will enable the Tennessee state parks agency to develop, manage and maintain sound programs of development and operation of Tennessee's state park resources;

(5) Establish the salary of the executive director of the Tennessee state parks agency; and

(6) Develop and formulate the state parks master plan as required by Section 53 of this act.

(b) The Tennessee state parks commission shall become knowledgeable in, and familiar with, the special needs of handicapped and disabled veterans.

SECTION 4. Tennessee Code Annotated, Title 11, Chapter 3, is amended by adding the following as a new Part 3 thereto.

Section 11-3-301.

As used in this part, unless the context otherwise requires:

(1) "Citizen support organization" means an organization which:

(A) Is organized as a nonprofit corporation, or is otherwise qualified to do business in Tennessee as a nonprofit corporation, pursuant to Title 48, Chapter 51;

(B) Is exempt from payment of federal income taxes pursuant to § 501(c) of the Internal Revenue Code of 1986, as it may be amended;

(C) Is incorporated for purposes which are consistent with the goals, objectives, programs, responsibilities and functions of the state park system as provided in Title 11, as determined by the commissioner or executive director; and

(D) Provides equal opportunities and membership to all persons regardless of race, color, national origin, sex, religion, age, handicap or other constitutionally protected classification.

(2) "Executive director" means the executive director of the state parks agency or the duly authorized representative of the executive director;

(3) "Department" means the department of environment and conservation; and

(4) "Park" means an area as defined at §11-3-101, and includes, but is not limited to, state natural areas, archaeological areas, historic areas, parks, scenic rivers, scenic trails and state forests.

#### Section 11-3-302.

The executive director may enter into an agreement with a citizen support organization for purposes consistent with this part if the executive director determines it is in the best interest of a specific park or the park system generally.

#### Section 11-3-303.

A citizen support organization which enters into an agreement with the executive director may provide support, assistance or cooperation to a specific park or to the park system in general, including, but not limited to:

- (1) The provision of educational or interpretative material for sale;
- (2) The provision of exhibits and materials for display and related equipment and material;
- (3) The provision of financial support, whether through donation, gift or otherwise, for park programs, property or other park purposes;
- (4) The provision of volunteer personnel services or monetary contributions for adding state positions for park services;
- (5) The provision of equipment or other goods; and
- (6) The gift or donation of money to fund programs and exhibits or to procure equipment, materials, books or services.

#### Section 11-3-304.



If the executive director enters into an agreement with a citizen support organization, the executive director may authorize such organization to use, under such conditions as the executive director may prescribe, property or facilities of the state park system to carry out its support activities.

Section 11-3-305.

The executive director may assist organizers of a citizen support organization with its creation and may provide technical assistance to the organization after its incorporation. However, it is the responsibility of the citizen support organization to ensure that the organization is lawfully incorporated and operating.

Section 11-3-306

(a) All annual reports and all books of accounts and financial records of a citizen support organization shall be subject to audit annually by the comptroller of the treasury. With prior approval of the comptroller of the treasury, the audit may be performed by a licensed independent public accountant selected by the citizen support organization. If an independent public accountant is employed, the audit contract between the citizen support organization and the independent public accountant shall be on contract forms prescribed by the comptroller of the treasury. The cost of any audit shall be paid by the citizen support organization; provided, that in the case of any audit performed by the comptroller of the treasury of any citizen support organization having gross receipts of less than twenty-five thousand dollars (\$25,000) for the fiscal period under audit, the cost of such audit shall be paid by the state.

(b) The comptroller of the treasury shall ensure that audits are prepared in accordance with generally accepted governmental auditing standards and determine if the audits meet minimum audit standards prescribed by the

comptroller of the treasury. No audit may be accepted as meeting the requirements of this section until approved by the comptroller of the treasury.

(c) One (1) copy of each audit shall be furnished to each member of the board of the citizen support organization, the department and the comptroller of the treasury.

(d) The department and the comptroller of the treasury, or their designated representative, shall have access to the citizen support organization's books, records and accounts whenever deemed necessary by either office.

(e) If the comptroller of the treasury determines that due to size or insignificant financial activities by a citizen support organization the requirement of this section for an audit is unnecessary or would be burdensome on a citizen support organization, then the comptroller of the treasury may waive the required audit.

#### Section 11-3-307.

(a) Any monetary gifts or donations otherwise received by the agency, the executive director, the commission, or by a specific park from a citizen support organization and designated by the citizen support organization for the benefit of a specific park or the park system in general shall be deposited directly to the account for the specific park or to the general account for the agency of state parks, shall not revert to the general fund at the end of the fiscal year and shall be retained in the account until expended, notwithstanding the provisions of Title 9, Chapter 4, or such other provisions requiring all funds be deposited into or revert to the general fund.

(b) Any gifts of equipment, materials, or other personal property to a specific park shall be used solely at that park unless the executive director

determines its use at another park is necessary and that the diversion of such gift does not materially harm the specific park for which it was given.

Section 11-3-308.

In the event a citizens support organization dissolves, any funds remaining after dissolution shall be donated to the state parks agency and shall be deposited, as provided in this act, and applied for the provision or expansion of state park programs, services or facilities.

Section 11-3-309.

(a) The commission is authorized to promulgate rules and regulations in accordance with the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5, which the commission deems necessary to administer this part.

(b) The existing rules of the department of environment and conservation shall continue in full force and effect after July 1, 2002, until revised by the commission.

SECTION 5. Tennessee Code Annotated, Title 11, Chapter 3, is amended by adding the following as new Part 4 thereto.

Section 11-3-401.

(a) There is hereby created a state parks agency which shall have full and exclusive jurisdiction of the duties and functions relating to state parks formerly held by the division of state parks in the department of environment and conservation, except for those powers and duties conferred upon the state parks commission as provided in Section 11-3-206 of this act.

(b) As a matter of state policy, the agency shall place first and foremost the welfare of its state parks in the agency's planning and decisions and shall encourage the full enjoyment and conservation of the state's natural resources by all citizens of the state. The agency shall implement these policies through

the creation of a comprehensive long range management plan that protects and enhances the resources of state parks.

Section 11-3-402. The state parks agency is directed and authorized to perform the following duties and functions:

(a) Protect, increase and preserve the state parks of this state, and enforce by proper action and proceedings, the existing laws of this state pertaining thereto;

(b) Acquire by purchase, lease, agreement, gift or devise, lands or waters suitable for preservation and use as a state park;

(c) Enter into cooperative agreements with state, federal and other agencies to promote and expand state parks; and

(d) Implement the long-range plan developed by the executive director and the commission for the preservation and expansion of state parks.

Section 11-3-403.

(a) The office of executive director of the state parks agency is hereby created. The executive director shall be appointed by the state parks commission and shall serve at the pleasure of the commission. In the selection of an executive director, the commission shall strive to appoint a person who has not less than ten (10) years of experience in parks and recreation administration with a preference given to a candidate with a significant background in state park management practices, natural area practices, and administrative and supervisory experience.

(b) The salary of the executive director shall be determined by the state parks commission. The salary of the executive director, once hired, shall not be reduced during that officer's tenure as executive director and shall not exceed the salary received by the commissioner of environment and conservation. All

reimbursement for travel expenses shall be in accordance with the provisions of the comprehensive travel regulations as promulgated by the department of finance and administration and approved by the attorney general and reporter.

Section 11-3-404.

The executive director shall:

(a) Be the head of the state parks agency under the direction and supervision of the commission and shall have exclusive supervisory control of the agency;

(b) Serve as recording secretary for the commission and shall be custodian of all minutes and all records of the commission; and

(c) Perform such other duties as may be prescribed by the commission or by law, but shall have no authority to make rules or regulations other than those governing the conduct of the employees of the state parks agency.

Section 11-3-405.

The executive director of the state parks agency shall have the power to:

(a) Enforce all laws relating to state parks, and to go upon any property, outside of buildings, posted or otherwise, in the performance of the executive director's duties;

(b) Execute all warrants and search warrants for the violation of the laws relating to state parks;

(c) Serve subpoenas issued for the examination, investigation and trial of all offenses against the law relating to state parks;

(d) Arrest without warrant any person found in the act of violating any of the provisions of this title;

(e) Offer rewards or payments for information which may aid in the conviction of any offender violating any section, or sections, of this title or any other law relating to state parks;

(f)

(1) Enforce any other law as directed by the general assembly;

(2) In connection with this duty, in view of the need to keep state parks as free as possible from the influence of criminal activity, and to facilitate the effective protection of public and private rights and property, particularly in, but not limited to, isolated areas, the executive director shall, in addition to the authority otherwise conferred by law, be vested with authority to arrest, without warrant or process of any kind, any person committing or attempting to commit a criminal offense in violation of any of the laws of this state if the offense is committed on public lands, rights-of-way or waters under the agency's management or control through lease, cooperative agreement or otherwise;

(g) Designate employees of the agency, officers of any other state or of the federal government who are full-time law enforcement personnel, to perform the duties and have the powers as prescribed in this section except subdivision (9);

(h) Arrest without warrant any person observed dumping or throwing litter or debris in the lakes, rivers, or on public property in the state parks; and

(i) Accept on behalf of the agency gifts of personal property upon such terms and conditions and for such uses and purposes as may be agreed by the donor thereof and the executive director.

Section 11-3-406.

(a) The expenses incurred by the agency for any purpose or in consequence of this chapter shall be limited to the amount of money in the state park fund. In no event shall the state pay or be liable, in any manner, for the expenses of the agency, except to the extent of the state park fund, and the commissioner of finance and administration shall not issue any voucher or warrant for any services or expenses of any kind unless a sufficient amount remains to the credit of the state park fund.

(b) Expenditures from the state park fund for the purchase of real property shall be made in the name of the state for the use and benefit of the state parks agency and expenditures made for the purchase of personal property shall be made in the name of the state parks agency. Upon disposal by sale of any property, both real and personal, proceeds derived therefrom shall be deposited in the state parks fund.

(c) The state parks commission shall approve the budget, including any amendments thereto, for the administration of this title for each fiscal year.

(d) All funds to the credit of the agency shall be drawn by the executive director of the state parks agency by warrant upon the department of finance and administration and such warrant shall have attached thereto or contained therein an itemized statement as to what the warrant covers.

(e) All purchases and expenditures are subject to the provisions of Titles 9 and 12.

(f) The agency shall not contract any indebtedness or obligations beyond the funds available for its use.

(g) The executive director is further granted the power and authority to fix the compensation of all employees under the executive director's jurisdiction, and is authorized to hire and dismiss such personnel as the executive director deems

necessary to carry out the provisions of this title, subject to the approval of the department of personnel.

(h) All reimbursement for travel expenses shall be in accordance with the provisions of the comprehensive travel regulations as promulgated by the department of finance and administration and approved by the attorney general and reporter.

Section 11-3-407. It is the duty of the executive director, on or before September 15 of each year, to prepare and present to the governor and each member of the state parks commission an annual report showing expenditures by the agency during the year immediately preceding, the amount of monies received and from what source and the amount expended and for what purposes. The annual report shall also contain the information required by Section 11-3-506 of this act.

Section 11-3-408.

(a) No employee or officer of the agency shall take any active part in political management or in political campaigns in violation of Tennessee Code Annotated, Title 2, Chapter 19, Part 2, nor shall such employee or officer use official authority or influence for the purpose of interfering with an election or affecting the results thereof, or for the purpose of coercing the political action of any person or body.

(b) It is lawful for the commissioned personnel of the state parks agency, regularly employed by the agency, acting through its executive director, to wear or carry pistols or other firearms.

Section 11-3-409.

The department of personnel and the Tennessee state parks agency shall develop a salary administration plan for the agency's rangers, biologists, and other positions unique to the agency.



SECTION 6. Tennessee Code Annotated, Title 11, Chapter 3, is amended by adding the following as a new Part 5 thereto.

Section 11-3-501.

(a) All monies sent to the state treasury in payment of fees, fines, penalties, and forfeitures arising from the laws of this state pertaining to state parks shall be set aside. This fund shall constitute a fund known as the "state parks fund" for:

(1) The payment of the state parks agency's necessary and incidental expenses;

(2) The payment of the salaries and traveling expenses of the director, office assistants, and other persons appointed or employed by the director;

(3) The purchase of lands suitable for state parks;

(4) The construction of suitable buildings, parking lots, and structures necessary for the use and enjoyment of state parks;

(5) The promotion, advancement and efficient management of state parks and their resources, including educational activities to that end; and

(6) Any purpose of, or in consequence of, this title not otherwise provided for.

(b) No part of the funds realized from fees, from contrabands, fines, penalties, forfeitures, or from any privilege taxes levied under the provisions of this title shall be used for any other purposes than those set out in subsection (a), nor shall any part of the state parks fund be diverted to the general fund or any

other public fund. Likewise, interest accruing on investments and deposits of the state parks fund shall be returned to the fund and remain a part of it, and under no circumstances shall such interest be diverted to any other public fund. Any fund balance remaining unexpended at the end of a fiscal year in the state parks fund shall be carried forward into the subsequent fiscal year.

Section 11-3-502. The state parks agency shall construct and maintain sites at each state park where persons can donate funds solely for the use of state parks. The agency shall also recommend other sources of revenue to the commission.

Section 11-3-503.

(a) It is the legislative intent that all appropriations which are required for implementation of this act shall be allocated to the state parks fund. In no event shall such appropriations be less than the appropriations provided to state parks in fiscal year 1997-1998. The commissioner shall allocate such appropriations for each of the next five (5) fiscal years, beginning July 1, 2003.

(b) After July 1, 2003, no appropriations from the general fund shall be allocated to the state parks fund unless such allocation is approved by the comptroller of the treasury, the governor, the commissioner of finance and administration, and the executive director.

(c) The commissioner of finance and administration is directed to transfer all appropriations, personnel, equipment and other sources allocated to the division of state parks to the state parks agency for the fiscal year 2001-2002.

Section 11-3-504. It is the intent of the general assembly that the state parks fund shall be fiscally self-sufficient by July 1, 2008. The operation, management and control of state parks shall be funded entirely from revenues derived from park resources, including any gifts, bequests, devises and donations to state parks.

Section 11-3-505.

(a) The state parks commission and the executive director, with assistance from the state parks agency, are hereby directed to develop and formulate a long-range plan, hereinafter referred to as a "master plan". Such master plan shall include the following:

- (1) Funding requirements for state parks;
- (2) Facilities preservation, maintenance and utilization;
- (3) Management and personnel requirements, including but not limited to, training, compensation, experience, and education requirements;
- (4) Development and expansion of existing and new park resources; and
- (5) Educational programming.

The master plan shall also recognize and take into account the objectives of the State Outdoor Recreation Plan created under Tennessee Code Annotated, Title 11, Chapter 9.

(b) The master plan shall include goals and projections for state parks for the next fifteen (15) years and shall be updated each five (5) years by the executive director and the commission. The initial master plan shall require approval by the house conservation and environment committee and the senate environment, conservation and tourism committee prior to March 1, 2003 and before March 1 of each year for the subsequent five (5) years thereafter. The commission, with the assistance of the executive director, shall conduct public hearings after public notice has been given in accordance with Title 8, Chapter 44. Public hearings shall be conducted in each of the three (3) grand divisions of the state regarding the components of the master plan, its update each five (5) years and any major interim revisions to the master plan. All park functions shall

be effectuated in accordance with the provisions of the master plan as adopted and ratified by the commission and approved by the required legislative committee.

Section 11-3-506.

(a) A copy of the annual report prepared by the executive director pursuant to this act shall be delivered to each member of the general assembly by February 1 of each year.

(b) The annual report shall also include a copy of an annual survey and its results. Such survey shall be completed by persons using the state parks.

The survey shall include the following:

- (1) The level of satisfaction with the condition of the state parks;
- (2) Areas which need improvement; and
- (3) Courtesy and professionalism of park personnel.

(c) The annual report shall also include the agency's evaluation of each state park under its jurisdiction. The evaluation shall include a full statistical account of the receipts and disbursements of state park agency funds, the condition and progress of state parks, and recommendations for improvements of the state park system.

Section 11-3-507.

In order to facilitate the transition period to a state parks commission, the commissioner of the department of environment and conservation and the director of state parks shall assist the state parks commission with the development of an initial master plan, the formulation and implementation of a budget, and the compilation of potential sources of funds for the operation and maintenance of state parks. The state parks commission shall prepare a report regarding the master plan, its proposed budget and potential sources of funds to

be delivered to the chair of the senate environment, conservation and tourism committee and the chair of the house conservation and environment committee by January 15, 2003. It is the intent of the general assembly that the state parks commission shall be attached administratively to the department of environment and conservation until such time as the general assembly approves the commission's budget and the plans of the commission for independence.

SECTION 7. For the purpose of making appointments to the state parks commission, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes this act shall take effect July 1, 2002, the public welfare requiring it.